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In re Application of :
LEXOW *et al* :
U.S. Application No.: 10/553,505 :
PCT No.: PCT/GB2004/001665 :
Int. Filing Date: 16 April 2004 : **DECISION**
Priority Date: 16 April 2003 :
Attorney Docket No.: 30986/41550 :
For: METHOD FOR IDENTIFYING :
CHARACTERISTICS OF MOLECULES :

This decision is in response to applicants' "Petition Under 37 C.F.R. § 1.47(a) and 35 U.S.C. §116" filed 11 January 2007.

BACKGROUND

On 07 August 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 11 January 2007, applicants filed a response which was accompanied by, *inter alia*, the subject petition; the surcharge fee; a declaration signed by one of the two named inventors; a statement by Preben Lexow; documentary evidence; and authorization to charge any additional fees to Deposit Account No. 13-2855.

DISCUSSION

Applicants claim that joint inventor Erland Ragnhildtsveit refuses to cooperate in the above-identified application and have filed the subject petition in response to the Form PCT/DO/EO/905 mailed 07 August 2006.

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventors.

Concerning item (1), the petition fee of \$200.00 has been charged to Deposit Account No. 13-2885 as authorized.

Regarding item (2), the 37 CFR 1.47(a) applicants submitted a declaration by co-inventor Preben Lexow who states that Mr. Ragnhildtsveit is a disgruntled former employee who has refused to execute an oath or declaration. Petitioners included a letter from the nonsigning inventor dated 03 January 2006 to his former employer. In the letter, Mr. Ragnhildtsveit requests additional money purportedly owed from his former employer.

Petitioners state that a copy of the subject application, a declaration and an assignment were mailed to the nonsigning inventor on 13 December 2006. A copy of the cover letter was included. However, the letter states only that a copy of the specification, declaration and assignment was included. Nonetheless, the statement by Mr. Lexow is taken to show that a complete copy of the subject application (specification, claims and drawings) were forwarded to the nonsigning inventor. If this is not the case, petitioners must promptly notify this office. Mr. Lexow also claims that he has not received a response from Mr. Ragnhildtsveit to his request.

This conduct is sufficient to show a refusal to cooperate pursuant to section 409.03(d) of the MPEP and meets item (2).

With regards to item (3), the last known address of Erland Ragnhildtsveit is listed as:

Jonsokveien 5
1182 Oslo,
Norway

Concerning item (4), the 37 CFR 1.47(a) applicants submitted a declaration signed by one of the two co-inventors on behalf of themselves and the nonsigning joint inventor. The residence, address and citizenship of all three inventors are recorded on the declaration. This declaration meets the requirements of section 409.03(a) and is in compliance with 37 CFR 1.497(a) and (b).

All requirements of 37 CFR 1.47(a) are complete.

CONCLUSION

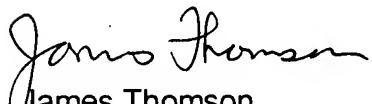
Applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C.

371(c). The application has an international filing date of 16 April 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 11 January 2006.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



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